

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

MISSISSIPPI STATE CONFERENCE OF
THE NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF COLORED
PEOPLE; DR. ANDREA WESLEY; DR.
JOSEPH WESLEY; ROBERT EVANS;
GARY FREDERICKS; PAMELA
HAMNER; BARBARA FINN; OTHO
BARNES; SHIRLINDA ROBERTSON;
SANDRA SMITH; DEBORAH HULITT;
RODESTA TUMBLIN; DR. KIA JONES;
MARCELEAN ARRINGTON; VICTORIA
ROBERTSON,

Plaintiffs,

v.

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, *in his
official capacity as Governor of Mississippi*;
LYNN FITCH, *in her official capacity as
Attorney General of Mississippi*; MICHAEL
WATSON, *in his official capacity as
Secretary of State of Mississippi*,

Defendants,

AND

MISSISSIPPI REPUBLICAN EXECUTIVE
COMMITTEE

Intervenor-Defendant.

No. 3:22-cv-734-DPJ-HSO-LHS

**PLAINTIFFS' SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
DIRECTED TO DEFENDANT MICHAEL WATSON, IN HIS OFFICIAL CAPACITY
AS SECRETARY OF STATE OF MISSISSIPPI**



Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs, by their undersigned counsel, hereby request that Defendant Michael Watson, in his official capacity as Secretary of State of Mississippi produce for inspection and copying the documents and things requested herein in accordance with all applicable Rules and the Definitions and Instructions set forth below within thirty (30) days of service.

DEFINITIONS

1. "2022 HOUSE MAP" shall mean and refer to the Mississippi State House of Representatives ("Mississippi State House") District Map approved by the Mississippi State House and Mississippi State Senate and enacted on March 31, 2022 (House Map JR-1).

2. "2022 SENATE MAP" shall mean and refer to the Mississippi State Senate District Map passed by the Mississippi State House and Mississippi State Senate and enacted on March 31, 2022 (Senate Map JR-202).

3. "2022 MAPS" shall mean and refer to both the HOUSE MAP and the SENATE MAP.

4. "2022 REDISTRICTING" shall mean and refer to the development, consideration, and passage of new legislative district lines that reflect the population of Mississippi according to the 2020 Census, including any discussion or consideration by any legislator, legislative staffer, legislative body, or any representatives, designees, attorneys, advisors, consultants, contractors, or agents thereto, of the district lines for one or more House and/or Senate districts.

5. "COMMUNICATION(S)" shall be interpreted in its broadest sense to include without limitation all oral or written communications, including any writings, texts, emails, voicemails, or other electronically stored information as that term is defined by Rule 34(a) of the Federal Rule of Civil Procedure.

6. "DOCUMENT" shall be defined to be synonymous in meaning and scope as the term "document" is used under Rule 34 of the Federal Rules of Civil Procedure and as the phrase "writings and recordings" is defined in Rule 1001 of the Federal Rules of Evidence and includes,

but is not limited to, any computer files, memoranda, notes, letters, emails, printouts, instant messages, ephemeral messages (such as Slack, Signal, Snapchat, Telegram, and Wickr), social media messages, text messages, or databases, and any handwritten, typewritten, printed, electronically-recorded, taped, graphic, machine-readable, or other material, of whatever nature and in whatever form, including all non-identical copies and drafts thereof, and all copies bearing any notation or mark not found on the original.

7. "LEGISLATOR" shall mean and refer to any past or present elected member of the Mississippi State House or the Mississippi State Senate (including, for purposes of this Subpoena, the Lieutenant Governor), including such member's past or present employees, legislative office staff, district office staff, committee staff, caucus staff, campaign staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, or other persons or entities acting or purporting to act on the member's behalf or subject to the member's control or on behalf of any committee or other body of which the elected member is a member.

8. "RELATING TO" shall mean referring to, regarding, consisting of, concerning, pertaining to, reflecting, evidencing, describing, constituting, mentioning, or being in any way logically or factually connected with the matter discussed, including any connection, direct or indirect, whatsoever with the requested topic.

9. "JOINT COMMITTEE" shall mean and refer to the Mississippi Legislature's Standing Joint Legislative Committee on Reapportionment and Redistricting and any legislators who serve or have served on the JOINT COMMITTEE or staff who are employed in whole or in part by the JOINT COMMITTEE, or any representatives, designees, attorneys, advisors, consultants, contractors, or agents thereto.

INSTRUCTIONS

1. In responding to these requests, please produce all responsive documents in your possession, custody, or control. This means that you must produce all responsive documents within

your actual possession, custody, or control, as well as such documents which you have the legal right to obtain on demand or the practical ability to obtain from a third party, including but not limited to any and all documents that you and your counsel or other persons or entities acting or purporting to act on your behalf have actually reviewed.

2. All references in these requests to an individual person include any and all past or present employees, staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, predecessors in office or position, and all other persons or entities acting or purporting to act on the individual person's behalf or subject to the control of such a person.

3. All references in these requests to an entity, governmental entity, or any other type of organization include its past or present officers, executives, directors, employees, staff, interns, representatives, designees, attorneys, advisors, consultants, contractors, agents, and all other persons or entities acting or purporting to act on behalf of such an organization or subject to its control.

4. In construing these document requests, apply the broadest construction, so as to produce the most comprehensive response. Construe the terms "and" and "or" either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside that scope. Words used in the singular include the plural.

5. Words or terms used herein have the same intent and meaning regardless of whether the words or terms are depicted in lowercase or uppercase letters.

6. Documents should be produced in their entirety, without abbreviation, redaction, or expurgation; file folders with tabs or labels identifying documents responsive to these requests should be produced intact with the documents; and documents attached to each other should not be separated.

7. Each document produced should be categorized by the number of the document request in response to which it is produced.

8. No portion of a request may be left unanswered because an objection is raised to another part of that request. If you object to any portion of a document request, you must state with specificity the grounds of the objection. Any ground not stated will be waived.

9. For any document withheld from production on a claim of privilege or work product protection, provide a written privilege log identifying each document individually and containing all information required by Rule 45(e)(2)(A) of the Federal Rules of Civil Procedure, including a description of the basis of the claimed privilege and all information necessary for Plaintiffs to assess the claim of privilege.

10. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any document request or subsection thereof, then in response to the appropriate request: (a) produce all such documents as are available without undertaking what you contend to be an unduly burdensome request; (b) describe with particularity the efforts made by you or on your behalf to produce such documents; and (c) state with particularity the grounds upon which you contend that additional efforts to produce such documents would be unduly burdensome.

11. If any requested document or other potentially relevant document is subject to destruction under any document retention or destruction program, the documents should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by court order.

12. In the event that a responsive document has been destroyed or has passed out of your possession, custody, or control, please provide the following information with respect to each such document: its title, date, author(s), sender(s), recipient(s), subject matter, the circumstances under which it has become unavailable, and, if known, its current location and custodian.

13. These requests are continuing in nature. Your response must be supplemented, and any additional responsive material disclosed if responsive material becomes available after you

serve your response. You must also amend your responses to these requests if you learn that an answer is in some material respect incomplete or incorrect.

14. Unless otherwise specified, all document requests concern the period of time from January 1, 2019, to the present.

DOCUMENT REQUESTS

13. All DOCUMENTS and COMMUNICATIONS RELATING TO reports or data produced by or for the Secretary of State's office, as requested by any LEGISLATOR or the JOINT COMMITTEE, RELATING TO the 2022 REDISTRICTING process.

14. All DOCUMENTS and COMMUNICATIONS RELATING TO reports or data produced by, for, or on behalf of Madalan Lennep, as requested by any LEGISLATOR or the JOINT COMMITTEE, RELATING TO the 2022 REDISTRICTING process.

15. All DOCUMENTS and COMMUNICATIONS RELATING TO the study of racial voting patterns acknowledged by Senator Dean Kirby on the floor on March 29, 2022, including but not limited to any drafts or underlying data.

16. All DOCUMENTS and COMMUNICATIONS provided by the Secretary of State's office to the JOINT COMMITTEE, staff of the JOINT COMMITTEE, or any individual LEGISLATOR RELATING TO racial demographics of Mississippi counties, precincts, or census blocks;

17. All DOCUMENTS and COMMUNICATIONS provided by the Secretary of State's office to the JOINT COMMITTEE, staff of the JOINT COMMITTEE, or any individual LEGISLATOR RELATING TO voting patterns in Mississippi elections with respect to race or ethnicity, including but not limited to any calculations, reports, audits, estimates, projections, other analyses.

[signatures on following page]

Dated: October 30, 2023

/s/ Joshua Tom

Joshua Tom, MSB 105392
jtom@aclu-ms.org
ACLU OF MISSISSIPPI
101 South Congress Street
Jackson, MS 39201
(601) 354-3408

Robert B. McDuff, MSB 2532
rbm@mcdufflaw.com
MISSISSIPPI CENTER FOR JUSTICE
767 North Congress Street
Jackson, MS 39202
(601) 969-0802

Carroll Rhodes, MSB 5314
Law Offices of Carroll Rhodes
crhodes6@bellsouth.net
PO Box 588
Hazlehurst, MS 39083
(601) 894-1464

John P. Lavelle, Jr.
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
Telephone: +1.202.739.3000
Facsimile: +1.202.739.3001
john.lavelle@morganlewis.com

Drew C. Jordan
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541
Telephone: +1.713.890.5000
Facsimile: +1.713.890.5001
drew.jordan@morganlewis.com

Respectfully submitted,

Ari J. Savitzky
asavitzky@aclu.org
Ming Cheung
mcheung@aclu.org
Casey Smith
csmith@aclu.org
ACLU FOUNDATION
125 Broad Street, 18th Floor
New York, New York 10004
(212) 549-2500

Patricia Yan
pyan@aclu.org
ACLU FOUNDATION
915 15th Street NW
Washington, DC 20005
(202) 457-0800

Ezra D. Rosenberg
erosenberg@lawyerscommittee.org
Jennifer Nwachukwu
jnwachukwu@lawyerscommittee.org
David Rollins-Boyd
drollins-boyd@lawyerscommittee.org
LAWYERS' COMMITTEE FOR CIVIL RIGHTS
UNDER LAW
1500 K Street NW Suite 900
Washington, DC 20005
(202) 662-8600

Attorneys for Plaintiffs

CERTIFICATION OF SERVICE

I, Joshua Tom, an attorney, certify that I caused a true and correct copy of the foregoing to be served via email on all counsel of record on this 30th day of October, 2023.

/s/ Joshua Tom
Joshua Tom